Securing tenure at Ekuthuleni

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Overview

- Introduction
- The world of Ekuthuleni
- Land reform begins
- The emergence of Pilar
- Using what exists
- Rights
- Boundaries
- Conclusion
Six years later, in 1994, our work has failed

Current legal, technical and institutional frameworks can’t secure tenure

Securing tenure is a process not a product

Narrow chance left with CLRA and the symbol of the communal general plan
The world of Ekuthuleni

- 1997 – request PTOs
- Facts:
  - 225 families
  - 1 100 ha
  - Ntembeni TA
  - DLA owned
  - Mthonjaneni
- Commercial forestry, sugar and fruit
The world of Ekuthuleni

- ..and subsistence and small scale agriculture
- Household income linked to old age pension
- Elected land committee
- Land use and land admin practices
Land reform begins

- DLA contracts AFRA to assess tenure needs
- People want household rights in a communal system at an affordable price
- Survey estimated at R2-6 000 per site
- Choice – township and title OR communal ownership
The emergence of Pilar

- Land rights bill collapses
- We assess the Ekuthuleni system in order to record
- Into property rights and the biases of the formal
- Decide on project goal – legal, affordable, sustainable records to meet people’s needs
The emergence of Pilar

- Decide on principles:
  - Build on existing systems
  - Adaptation
  - Work with stakeholders
  - Encourage coherence
Using what exists

- Two systems – one of African other Western
- Doubts about existing options – title failure – but
- Statutory rights (IPILRA, ESTA) / Personal rights
- Real rights – ownership, lease, sectional title
Using what exists

- Limited real rights – habitation, usufruct, use servitudes
- Local registers
- Strengthening personal
- No law able to do it
The Communal Land Rights Act (CLRA)

- transfer of property
- AND deeds of land tenure rights
- community rules
- rights enquiry and ministerial determination
- communal general plan
- township register
The Communal Land Rights Act (CLRA)

- But:
  - split of rights
  - what system
  - costs and sustainability
Boundaries

- Legal boundaries, community boundaries
- Using orthophotos:
  - Familiarity
  - Bridging local and expert
  - Costs
  - Accuracy
- Appropriateness of photos
- Adjudication
Boundaries

- New institutional models
Boundaries

- DLA version
- Surveyor’s version
- Technical issues
- The CGP heritage
- Where are the trade-offs?
**Conclusion**

- **Formal system**
  - Monolithic
  - Exclusive
  - Market based
- **Local system**
  - Functional
  - Inclusive
  - Livelihood
- **No bridges – poor are out, rich are in**
- **All depends on CLRA’s configuration**